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8 UNITED STATES DISTRICT COURT  
9 SOUTHERN DISTRICT OF CALIFORNIA

10 PRUDENTIAL INSURANCE ) Civil No. 12-CV-1704-JM (WVG)  
11 COMPANY OF AMERICA, )  
12 Plaintiff, ) SECOND AMENDED  
13 v. ) ORDER GRANTING *EX PARTE*  
14 TURNER-JOHNSON, *et al.*, ) APPLICATIONS FOR  
15 Defendants. ) DISBURSEMENT OF FUNDS  
[DOC. NOS. 39, 40]

16 On April 29, 2013, this Court issued an Amended Order Granting *Ex Parte*  
17 Applications for Disbursement of Funds. (Doc. No. 42.) The Court ordered the parties  
18 to file a Joint Motion to Dismiss this case with prejudice after receipt of the  
19 disbursement checks, and on or before May 31, 2013. *Id.* at 4. It has come to the  
20 Court's attention that the Clerk of the Court placed the death benefit funds into an  
21 interest bearing account, and as a result, a small amount of interest has accrued. The  
22 Clerk of the Court requires an Order directing the disbursement of the interest that has  
23 accrued in the account, along with an additional \$121.75, the amount of the premium  
24 refund. Therefore, the checks ordered to be disbursed in the Court's April 29, 2013,  
25 Order, shall include a division of any accrued interest and the premium refund,  
26 resulting in an increase in the amount of funds that will be disbursed to each claimant  
27 by the Clerk of the Court.  
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1 The Court now amends its April 29, 2013, Order, and the parties shall file a  
 2 Joint Motion to Dismiss this case with prejudice after receipt of the disbursement  
 3 checks, and on or before June 21, 2013.

#### 4 **I. BACKGROUND**

5 On October 30, 2012, Plaintiff Prudential Insurance Company of America  
 6 (“Prudential”) filed this action to interplead the death benefit of Mr. Frazier C. Spann  
 7 (the “Insured”), and dismiss Prudential from the action. (Doc. No. 12.) On November  
 8 30, 2012, the Honorable Jeffrey T. Miller, United States District Judge, granted  
 9 Prudential’s Motion to Interplead and Dismiss Prudential from this case. (Doc. No.  
 10 18.) Judge Miller ordered that the Clerk of the Court receive and deposit into the  
 11 Registry of the Court, a death benefit in the amount of \$50,000, plus claim interest,<sup>1/</sup>  
 12 and a premium refund in the amount of \$121.75 (the “Death Benefit”), which  
 13 represented the full amount payable upon the death of the Insured under Group Life  
 14 insurance policy number G-32000, which was issued by Prudential, through the Office  
 15 of Servicemembers’ Group Life Insurance (“OSGLI”). Id.

16 On December 5, 2012, this Court held an Early Neutral Evaluation (“ENE”)  
 17 Conference with all parties and counsel. Defendants Shirley Turner-Johnson, Rhonda  
 18 Middleton-Spann, and Joyce Spann appeared in *pro per*. Defendant Joyce Spann  
 19 appeared telephonically and only for the beginning of the Conference due to her  
 20 representation to the Court that she was not asserting any claim to the funds that had  
 21 been deposited into the Registry of the Court. Attorney Jeffrey Wilson appeared on  
 22 behalf of Defendant Jeahne Spann-Davis, who was also present in the undersigned’s  
 23 chambers. During the ENE Conference, the parties settled the case, and memorialized  
 24 the settlement on the record in open court.

25 On January 30, 2013, Prudential deposited the death benefit in the amount of  
 26 \$50,000, plus claim interest of \$291.70, for a total check amount of \$50,291.70 (check  
 27 number 3220015698) with the Court. (Doc. No. 39; Exh. A.) A premium refund in the

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28 <sup>1/</sup> The total claim interest is \$291.70.

1 amount of \$121.75 was also deposited with the Court. Therefore, a total of **\$50,413.45,**  
2 **plus any accrued interest,** has been deposited with the Court.

3 On February 20, 2013, Judge Miller granted Prudential's Motion for an Award  
4 of Attorney's Fees and Costs, awarding fees in the amount of \$3,364.75, and total costs  
5 in the amount of \$350.00, for a total award for \$3,714.75. (Doc. No. 38.)

6 On March 11, 2013, Prudential filed an *Ex Parte* Application for an Order  
7 Releasing Funds on Deposit Pursuant to the Court's February 20, 2013, Order Granting  
8 Motion for Attorney's Fees and Costs. (Doc. No. 39.) In its *Ex Parte* Application,  
9 Prudential requests that the Court issue an Order directing the Clerk of the Court to  
10 issue a check in the amount of \$3,714.75 payable to "Brown Law Group," out of the  
11 Death Benefit deposited with the Court, which represents the full amount of the  
12 attorney's fees awarded to the Brown Law Group, Prudential's local counsel, and  
13 d'Arcambal Ousley & Cuyler Burk, LLP, Prudential's national counsel. *Id.* at 2; Doc.  
14 No. 24 at 4.

15 On April 3, 2013, Claimant Jeahne R. Spann-Davis filed an *Ex Parte*  
16 Application for an Order Releasing Residual Funds on Deposit Pursuant to Settlement  
17 Amongst All Remaining Defendants and Request for Conditional Dismissal. (Doc. No.  
18 40.) On behalf of herself and the other Claimants bound by the settlement agreement,  
19 Ms. Spann-Davis requests that the Court issue an Order directing the Clerk of the Court  
20 to issue a check to each of them, in equal shares, at their addresses of record, for the  
21 remaining Death Benefit funds. The Claimants' equal shares are based on the Death  
22 Benefit funds remaining after disbursement of the attorney's fees and costs to the  
23 Brown Law Group. *Id.* at 4. Ms. Spann-Davis also requests, on behalf of herself and  
24 the other Claimants bound by the settlement agreement, that the equal distribution of  
25 remaining funds also includes equal distribution of income earned on the proportionate  
26 shares, as well as reductions for registry fees. *Id.*

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## II. RULING

Having reviewed the Order Granting Motion for an Award of Attorney's Fees and Costs, Prudential's *Ex Parte* Application for an Order Releasing Funds on Deposit Pursuant to the Court's February 20, 2013, Order Granting Motion for Attorney's Fees and Costs, Claimant Jeahne R. Spann-Davis' *Ex Parte* Application for an Order Releasing Residual Funds on Deposit Pursuant to Settlement Amongst All Remaining Defendants and Request for Conditional Dismissal, and the executed settlement agreement, the Court finds good cause for the funds to be disbursed to Prudential and the three Claimants bound by the settlement agreement. (Doc. Nos. 38 - 40.)

IT IS SO ORDERED that the Clerk of the Court issue a check in the amount of **\$3,714.75 payable to "Brown Law Group,"** out of the Death Benefit deposited with the Court. See Doc. No. 38 at 5.

IT IS ALSO ORDERED that the Clerk of the Court issue a check in the amount of **\$15,566.24, plus one third of any accrued interest, payable to "Jeahne R. Spann-Davis,"** care of Mr. Jeffrey T. Wilson, Attorney at Law, at 16955 Via Del Campo, Suite 210, San Diego, CA, 92127-7720, out of the Death Benefit deposited with the Court.

IT IS ALSO ORDERED that the Clerk of the Court issue a check in the amount of **\$15,566.23, plus one third of any accrued interest, payable to "Shirley A. Turner-Johnson,"** at 4901 Solola Ave, San Diego, CA, 92113, out of the Death Benefit deposited with the Court.

IT IS ALSO ORDERED that the Clerk of the Court issue a check in the amount of **\$15,566.23, plus one third of any accrued interest, payable to "Rhonda Middleton-Spann,"** at 5757 Lake Murray Boulevard, Apt. 94, La Mesa, CA, 91942, out of the Death Benefit deposited with the Court.

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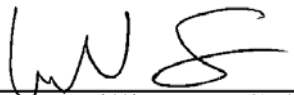
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1 Further, this Court lacks the jurisdiction to grant Ms. Spann-Davis' request for  
2 a conditional dismissal. After receipt of the disbursement checks, and on or before June  
3 21, 2013, the parties shall file a Joint Motion to Dismiss this case with prejudice.

4 IT IS SO ORDERED.

5 DATED: May 29, 2013

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8 Hon. William V. Gallo  
U.S. Magistrate Judge  
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